

Proposal to Add “Gender Identity or Expression” to the Nondiscrimination and Human Rights Policies of Amherst

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Why the Change Is Needed

The current nondiscrimination policy of Amherst includes “sex” and “sexual preference” as protected categories.¹ Neither necessarily applies to transgender people, who often face discrimination based on their gender identity and expression, rather than their biological sex or sexual orientation. Transgender people are individuals whose gender identity and/or expression is sometimes or always different from the gender assigned to them at birth. Among the groups typically considered to be part of the transgender community are transsexual individuals, genderqueer individuals, crossdressers, drag queens and kings, and others who cross traditional gender categories.

“Gender identity or expression” should be added to Amherst’s nondiscrimination policy because transgender people in the United States experience widespread harassment and violence. For example, a national study of 402 transgender individuals found that 60 percent had experienced one or more types of gender-identity-related violence or harassment in their lifetimes. In terms of the offenses they reported, 56 percent had been harassed or verbally abused, 30 percent had been assaulted with or without a weapon, 17 percent had objects thrown at them, 14 percent had been robbed, and 8 percent experienced what they considered to be an unjustified arrest.²

In my own national study, which involved close to 3,500 transgender people, 27 percent of the respondents reported that they had been harassed within the past year because of their gender identity and/or gender expression. Among the individuals who had been harassed, 16 percent were verbally harassed, 7 percent were threatened with violence, and 2 percent were physically assaulted.³

Transgender individuals in Amherst also frequently experience discrimination. As Director of the Stonewall Center, I have received more than ten calls in the past two years from local transgender people who have been harassed, assaulted, or experienced employment discrimination. I have had to tell most of these individuals that they have no legal recourse, because Amherst does not include “gender identity or expression” in its nondiscrimination policies.

¹ For example, city employment applications state: “The Town of Amherst is proud to be an equal opportunity employer and applicants are considered for all positions without regard to race, color, creed, religion, sex, national origin, age, sexual preference, or the presence of a non-job-related medical condition or handicap.”

² Emilia L. Lombardi, Riki Anne Wilchins, Dana Priesing, and Diana Malouf, “Gender Violence: Transgender Experiences with Violence and Discrimination,” *Journal of Homosexuality* 42 (2001): 89-101.

³ Brett-Genny Beemyn and Sue Rankin, *The Lives of Transgender People* (New York: Columbia University Press, forthcoming).

Other Cities that Have Amended Their Policies

In amending its nondiscrimination and human rights policies to include "gender identity or expression," Amherst would be joining 13 states and 108 cities and counties that seek to protect the rights of their transgender citizens. The cities with transgender-inclusive laws include most of the country's largest metropolises, such as Atlanta, Baltimore, Boston, Chicago, Dallas, Denver, Detroit, Houston, Indianapolis, Los Angeles, New Orleans, New York City, Philadelphia, Pittsburgh, San Diego, San Francisco, Seattle, and Washington, D.C. But these laws are not limited to large cities. The municipalities which have become transgender-inclusive also include a number of smaller towns, like New Hope, PA (population 2,252); Saugatuck, MI (population 3,590); Lincoln City, OR (population 7,437); and Decorah, IA (population 8,172).

To date, Northampton is the only municipality in Western Massachusetts to offer protection for the rights of transgender people by including "gender identity or expression" in its city code.

"Gender identity or expression" is defined in the Northampton code of ordinances as follows:

ARTICLE II Construction and Definitions [Adopted as Ch. 1, § 1-3, of the 1977 Code]

§ 1-16. Rules of construction and definitions.

A. As used in the Code, the following terms shall have the meanings indicated:

CITY - The City of Northampton, in the County of Hampshire, and the Commonwealth of Massachusetts.

CITY COUNCIL or COUNCIL - The duly elected City Council of the City of Northampton.

CODE or THIS CODE - The Code of Ordinances, City of Northampton, Massachusetts.

COMMONWEALTH - The Commonwealth of Massachusetts.

GENDER IDENTITY OR EXPRESSION - Includes a person's actual or perceived gender, as well as a person's gender identity, gender-related self-image, gender-related appearance, or gender-related expression whether or not that gender identity, gender-related self image, gender-related appearance, or gender-related expression is different from that traditionally associated with a person's sex at birth. [Added 12-15-2005]

"Gender identity or expression" is included in the ordinance creating the Northampton Human Rights Commission, indicating that city residents can seek recourse for anti-transgender discrimination:

§ 22-104. Powers and duties.

A. The Commission shall have the following powers and duties:

(1) To enlist the participation of racial, religious, ethnic, civic, fraternal, benevolent, private and public individuals, organizations, and agencies in its efforts to eliminate unlawful discrimination and to cultivate an atmosphere of mutual understanding and harmonious intergroup relationships.

(2) To receive complaints of discrimination in the City in which the complained of actions may deny or tend to deny equal access or opportunity in matters of housing, employment, education, contracts, purchasing or public accommodations, on the basis of race, color, religious creed, national origin, sex, **gender identity or expression**, sexual orientation, age, ancestry, or disability, marital status, veteran status, receipt of public or housing assistance, or because they have children.

[Amended 12-15-2005]